

Appln. No. 09/862,766  
Amendment dated July 27, 2005  
Reply to Office Action mailed April 27, 2005

### REMARKS

Reconsideration is respectfully requested.

Claims 1 through 19 and 21 remain in this application. Claim 20 has been cancelled. No claims have been withdrawn. Claims 21 through 24 have been added.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

#### Part 1 of the Office Action

Claim 20 has been rejected under 35 U.S.C. §112 (second paragraph) as being indefinite.

Claim 20 has been cancelled, and therefore the §112 rejection of claim 20 is submitted to be moot.

#### Parts 2 and 3 of the Office Action

Claims 1, 2, 4 through 11, and 14 through 21 have been rejected under 35 U.S.C. §102(e) as being anticipated by PCT Application No. WO 00/75924.

Claims 3, 12 and 13 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over PCT Application No. WO 00/75924.

Claim 1, particularly as amended, requires "an ear module formed to be *entirely supported* by an ear". Claim 4 requires "an ear module formed to be *entirely supported* by an ear". Claim 9 requires "an ear module formed to be *entirely supported* by an ear". This relationship, which is evidenced by the Figures of the drawings, permits the ear module to be worn without requiring other contact or connections with the body of the wearer.

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In contrast, the cited PCT application relied upon in the rejections of the Office Action, clearly describes a device which is not only supported on both of the ears of the user, but also on the neck of the user. More specifically, the PCT application states at page 4, lines 10 through 14 (emphasis added):

In order to achieve the above object, an audio player according to the present invention comprises a main body disposed on the rear of the neck of a user; arms extended toward the ears of the user from the main body; ear phones disposed on the front ends of the arms and contacted with the ears of the user; and ear hooks hung on the ears of the user for the ear phones to be kept on the ears.

Clearly, one of ordinary skill in the art understands from this summary of the device of the PCT application that the device is not "entirely supported by an ear", as it unambiguously describes a main body of the device resting on the neck and each of the earphones collectively contacting both of the ears of the user. This is not the only description of this relationship in the PCT application, see also page 5, lines 19 through 22 (emphasis added):

As shown in FIG. 3, an audio player according to an embodiment of the present invention is provided with a main body 1 disposed on the rear of the neck of a user and two arms 2 extended from the main body 1 to two earphones 4 placed on ears of the user. The earphones 4 has pads 5 covering the ears and ear hooks 3 hung on the ears.

The PCT application also points out one disadvantage of the device described therein at page 5, line 26 through page 6, line 2 (emphasis added):

A disadvantage of the audio player according to the present invention is that the main body 1 is disposed on the rear of the neck of a user so that its weight is supported in a state contacted with the user's skin.

Further, the PCT application asserts various advantages of the several contact points between the device and the user's body. See, for example, page 6, line 26 through page 4 (emphasis added):

In the ear hooks 13 of FIG. 2, the arms 12 are contacted with the rear portions of ears to cause skin diseases and the like when using the arms 12 for a long time, whereas, in the ear hooks 3 according to an embodiment of the present invention, only the front ends of the ear

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hooks 3 are contacted with the upper portions of ears as in eye glasses, so that particular problems are not caused since contact areas or contact pressures become less.

The PCT application further states at page 7, lines 5 through 9 (emphasis added):

FIGs 5(A) and 5(B) are a side view and a plain view for showing wearing states of the audio player of FIG. 3, respectively. As shown in FIGs. 5(A) and 5(B), since the main body 1 is contacted with the rear portion of the neck to be supported in a state that the ear hooks 3 are hung on the ears of a user, the load due to the main body 1 is dispersed for the user not to feel much weight compared to a simple neck phone.

In light of this discussion, it is submitted that one of ordinary skill in the art would understand that the PCT application advocates as many contact points as possible on the user's body to minimize pressure at any one point, which would only lead one of ordinary skill in the art away from the claimed invention.

It is therefore submitted that the PCT application WO 00/75924 patent would not lead one of ordinary skill in the art to the applicant's claimed invention as defined in claims 1, 4, and 9, especially with the requirements set forth above, and therefore it is submitted that these claims are allowable over the prior art. Further, claims 2, 3, 5 through 8, and 10 through 13, which depend from these claims, also include the requirements discussed above and therefore are also submitted to be in condition for allowance.

Claims 14 and 16 each require "a connector adapted to connect to the audio player *in a suspended relationship from the audio player*" and "a memory coupled to the connector that stores digitized audio, *the memory being suspended from the connector to suspend the memory from the audio player*". Claim 18 requires "storing such digital format signals on a memory device" and "suspending the memory device from a digitized audio player entirely supported by an ear of a user of the player".

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In contrast to the requirements of these claims, the PCT application discloses a flash memory device F that is inserted into the "main body" of the device that extends around the back of the head of the user. Clearly, this flash memory is not suspended in any manner, as it is positioned inside the relatively rigid strap of the main body.

It is therefore submitted that the PCT application WO 00/75924 patent would not lead one of ordinary skill in the art to the applicant's claimed invention as defined in claims 14, 16 and 18, especially with the requirements set forth above, and therefore it is submitted that these claims are allowable over the prior art. Further, claims 15, 17, 19, and 21, which depend from these claims, also include the requirements discussed above and therefore are also submitted to be in condition for allowance.


Withdrawal of the §102(b) and §103(a) rejections of claims 1 through 19 and 21 is therefore respectfully requested.

### CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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